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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,004	12/30/2003	Jonathan B. Quint	BC1	8383
7590 05/23/2005			EXAMINER	
Peter S. Canelias Law Offices of Peter S. Canelias Suite 2148 420 Lexington Ave. New York, NY 10170			BUI, BRYAN	
			ART UNIT	PAPER NUMBER
			2863	
DATE MAILED: 05/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,004

Applicant(s)

QUINT ET AL.

Examiner

Bryan Bui

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-10, 12-18 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 8, 11 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>123003</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19 and 22-24, drawn to battery management system, classified in class 702, subclass 63.
 - II. Claims 20-21, drawn to battery testing device, classified in class 702, subclass 122.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of each groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, inventions can each be used for their respective uses has separate utility such as a structure of testing device. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for group I is not required for group II, the restriction for examination purposes as indicated is proper.

3. During a telephone conversation with Mr. Peter S. Canelias on 5/16/2005 a provisional election was made without traverse to prosecute the invention of the invention of group I, claims 1-19 and 22-24. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-21 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-7, 9-10, 12-18, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Kalley (US 20040251907).

With respect to claims 1 and 22, Kalley teaches a battery management (evaluation, testing ,managed) comprising a tag (label) associated with a battery; said tag bearing a unique identifier; a battery tester for performing tests on said battery (paragraph 0022); said battery tester having an input for capturing said identifier; a communication interface (communication device) between the battery tester and a computer network and a server (computer system) having database for storing battery-related data associated with said unique identifier transmitted over the computer network (paragraphs 0014, 0022, 0026, 0038).

With respect to claims 2-3, Kalley teaches wherein said unique identifier is in the form of a bar code; wherein said input of said battery tester is a bar code reader (paragraph 0024).

With respect to claim 4, Kalley further teaches wherein battery related data comprises said unique identifier; date and time of a battery test; an indication of test type; a test measurement value; a voltage reading (paragraphs 0023, 0025, 0044).

With respect to claims 5-6, Kalley teaches wherein said battery-related data further comprises an ambient temperature reading and a battery temperature reading (paragraph 0025).

With respect to claim 7, Kalley teaches wherein said battery-related data further comprises a strap measurement value (adhesive/embedding) in paragraph 0027.

With respect to claim 9, Kalley teaches a battery management (evaluation, testing, managed) comprising a tag (label) associated with a battery; said tag bearing a unique identifier; a battery tester for performing tests on said battery (paragraph 0022); said battery tester having an input for capturing said identifier; a communication interface (communication device) between the battery tester and a computer network and a server (computer system) having database for storing battery-related data associated with said unique identifier transmitted over the computer network (paragraphs 0014, 0022, 0026); software (database programming language) for generating a report from the battery-related data and the server having port for outputting the report to the computer network (paragraphs 0025, 0038).

With respect to claim 10, Kalley further teaches wherein software comprises an automatic notification feature that transmits the report automatically upon input of the battery-related data (paragraph 0025).

With respect to claim 12, Kalley teaches wherein said server (computer system) communicates over the communication network to a manufacturer website (online network communication/transmitted electronically) and transmits battery-related data (paragraphs 0026, 0047).

With respect to claims 13-14, Kalley teaches wherein said unique identifier is in the form of a bar code; wherein said input of said battery tester is a bar code reader (paragraph 0024).

With respect to claim 15, Kalley further teaches wherein battery related data comprises said unique identifier; date and time of a battery test; an indication of test type; a test measurement value; a voltage reading (paragraphs 0023, 0025, 0044).

With respect to claims 16-17, Kalley teaches wherein said battery-related data further comprises an ambient temperature reading and a battery temperature reading (paragraph 0025).

With respect to claim 18, Kalley teaches wherein said battery-related data further comprises a strap measurement value (adhesive/embedding) in paragraph 0027.

With respect to claims 23-24, Kalley teaches generating a report from the battery-related data and the server having port for outputting the report to the computer network (paragraphs 0025, 0038); transmitting the report automatically upon input of the test data from the computer network (paragraph 0025).

Allowable Subject Matter

7. Claims 8, 11, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In combination with other limitation of the claims, the prior art does not disclose wherein said battery-related data further comprises battery recycling information; wherein said battery tester is interface with a server having a network communication pathway, storing said battery-related data and selectively transmitting the battery-related data across the network communication pathway and receiving data from the network communication pathway for transmission to a user.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Bui whose telephone number is 571-272-2271. The examiner can normally be reached on M-Th from 7am-4pm, and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BB

5/17/2005

BRYAN BUI
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Bryan Bui', is written below the printed name and title.